

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

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|--|---|------------------------|
| In the matter of the amend- |) | NOTICE OF PROPOSED |
| ment of ARM 32.2.404, 32.3.201, |) | AMENDMENT AND ADOPTION |
| 32.3.224, 32.3.224A, 32.3.401, |) | |
| 32.3.403, 32.5.101, 32.18.204, and |) | NO PUBLIC HEARING |
| the adoption of NEW RULE I pertain- |) | CONTEMPLATED |
| ing to department livestock permit |) | |
| fees, miscellaneous fees, definitions, |) | |
| bison, unlawfully estrayed and public- |) | |
| owned migratory bison from herds |) | |
| affected with a dangerous disease, |) | |
| use of brucella abortus vaccine, do- |) | |
| mestic bison permit before removal |) | |
| from county or state, livestock market |) | |
| releases |) | |

1. On September 19, 2011, the Department of Livestock proposes to amend and adopt the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on September 12, 2011, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

32.2.404 DEPARTMENT OF LIVESTOCK PERMIT FEES (1) through (7) remain the same.

(8) Domestic bison transportation permit as required by 81-5-211, MCA1.00

AUTH: 81-1-102, 81-22-102, MCA
IMP: 81-3-205, 81-3-211, 81-3-214, 81-5-112, 81-7-504, 81-8-256,
81-8-276, MCA

32.3.201 DEFINITIONS (1) through (1)(b) remain the same.

(c) "Livestock" means cattle, horses, mules, asses, sheep, swine, goats, domestic bison, llamas, and ratites.

(d) through (h) remain the same.

AUTH:81-2-102, 81-2-103, 81-20-101, MCA
IMP:81-2-102, 81-2-103, 81-20-101, MCA

32.3.224 DOMESTIC BISON (1) Domestic bison may enter the state of Montana provided they enter in conformity with ARM 32.3.201 through 32.3.211 and in addition:

- (a) and (i) remain the same.
- (ii) domestic bison consigned directly to an official slaughtering establishment for immediate slaughter;
- (iii) remains the same;
- (iv) domestic bison originating in an official certified Brucellosis free bison herd;
- (b) domestic bison required to be tested for Brucellosis prior to entry may be quarantined for a 45 to 120 day Brucellosis retest, at owner's expense, after arrival in Montana. Included here will be all female domestic bison from states or areas with Brucellosis classification of A, B, or lower;
- (c) female domestic bison must be officially calfhood vaccinated by a deputy state veterinarian prior to entry into Montana, with a Brucella abortus vaccine approved by the administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture except the following:
 - (i) spayed domestic bison;
 - (ii) domestic bison consigned directly to an official slaughtering establishment for immediate slaughter;
 - (iii) nonvaccinated domestic bison four to 11 months of age placed under quarantine upon arrival, for official calfhood vaccination or spaying by a deputy state veterinarian, within 30 days of their entry;
 - (iv) nonvaccinated domestic bison less than four months of age, imported without their dams, placed under quarantine upon arrival, for official calfhood vaccination or spaying by a deputy state veterinarian, within six months of their entry; and
- (v) all domestic bison imported under this rule shall be officially identified prior to importation and listed on the official health certificate; and
- (d) all domestic bison imported into Montana must meet the interstate requirements set forth in Title 9 CFR.

AUTH: 81-2-102, 81-2-103, MCA
IMP: 81-2-102, 81-2-103, MCA

32.3.224A UNLAWFULLY ESTRAYED AND PUBLIC-OWNED MIGRATORY WILD BISON FROM HERDS AFFECTED WITH A DANGEROUS DISEASE

(1) When estrayed or migratory wild bison exposed to or affected with Brucellosis, a dangerous, contagious, zoonotic disease of man and animals, enter into or are otherwise present within the state of Montana one of the following actions will may be taken:

- (a) The live wild bison may be physically removed by the safest and most expeditious means from within the state boundaries. This means may include

but not be limited to capture, trucking, hazing/aversion, or delivery to a departmentally approved slaughterhouse.

(b) If live wild bison cannot safely be removed by reasonable and permanent means be removed from the state they shall be summarily destroyed where they stand by the use of firearms. If firearms cannot be used with due regard to human safety and public property wild bison may be relocated to such a danger free area and destroyed by firearms or by any other practicable means of euthanasia.

(c) When wild bison of necessity or unintentionally are killed through actions of the department, the carcass remains will be disposed of by the most economical means possible. This may include but not be limited to burying, incineration, rendering, or field dressing for delivery to a departmentally approved slaughterhouse or slaughter destination.

AUTH: 81-2-102, 81-2-103, MCA

IMP: 81-2-102, 81-2-103, MCA

32.3.401 DEFINITIONS (1) remains the same.

(2) An "animal" is any quadruped of a species which can become infected with brucellosis. The term includes, but is not limited to a member of the bovine, porcine, canine, ovine, bison (wild or domestic), caprine, or feline species, or the genus cervidae.

(3) An "approved brucella vaccine" is a brucella product approved by and produced under license of the United States Department of Agriculture for injection into cattle or bison (wild or domestic) to enhance their immune response to brucella.

(4) through (8) remain the same.

(9) A "Designated Surveillance Area (DSA)" is a geographically defined region as specified in ARM 32.3.434 in which cattle or domestic bison may be exposed to brucellosis from wildlife.

(10) remains the same.

(11) An "official adult vaccinate" (AV) is a sexually intact animal of the genus bos or domestic bison vaccinated with an approved brucella vaccine, using approved procedures, and of an age older than that permitted for official calfhood vaccination.

(12) through (20) remain the same.

AUTH: 81-2-102, 81-2-103, 81-2-104, MCA

IMP: 81-2-101, 81-2-102, 81-2-103, 81-2-104, 81-2-105, 81-2-110, 81-2-111, MCA

32.3.403 USE OF BRUCELLA ABORTUS VACCINE (1) remains the same.

(2) The state veterinarian, upon discovery that the owner of imported livestock eligible for official vaccination cannot or will not otherwise have those cattle or domestic bison officially vaccinated, shall arrange for the official vaccination of such eligible cattle or domestic bison at a reasonable cost to the owner.

AUTH: 81-2-102, 81-2-103, MCA
IMP: 81-2-102, MCA

32.5.101 DEFINITIONS The following definitions apply to this subchapter:

(1) "Livestock" means cattle, horses, mules, asses, sheep, llamas, alpacas, domestic bison, swine, ostriches, rheas, emus, goats, alternative livestock as defined in 87-4-406, MCA, and other animals for purposes of disease prevention, control and eradication.

(2) through (5) remain the same.

AUTH: 81-2-102, MCA
IMP: 81-2-102, MCA

32.18.204 LIVESTOCK MARKET RELEASES -DURATION AND CIRCUMSTANCES UNDER WHICH DIVERSION ALLOWED (1) Neither a licensed livestock market, nor a person having possession or control of livestock consigned to a Montana licensed livestock market may remove livestock from the market until the release required by 81-3-211(3), MCA has been issued. The release shall describe the livestock for which it is issued by sex, brand, breed, and number and is valid for 36 hours after the livestock leave the market the release is issued. Diversion from the destination shown on the release may not occur until the person making the diversion has obtained either a brand inspection or an appropriate transportation permit authorizing movement of the livestock to the new destination.

AUTH: 81-3-202, MCA
IMP: 81-3-211, MCA

4. The rule as proposed to be adopted provides as follows:

NEW RULE I DOMESTIC BISON PERMIT BEFORE REMOVAL FROM COUNTY OR STATE (1) In any county of the state of Montana where the Department of Livestock must issue permits for domestic bison before removal from that county or state, as provided for in 81-5-112, MCA, any person removing or causing to be removed from the county or state any domestic bison must first obtain from a state stock inspector or deputy state stock inspector, a permit for removal.

(a) The permit must be issued on an approved Department of Livestock, Brands Enforcement Division form.

(b) The owner or his agent must sign the permit and certify as to approximate number and the description.

(c) The department form shall, when used for a domestic bison permit, show destination in or out of the state of Montana.

(d) An owner's account of sale purchase sheet shall constitute a domestic bison permit for those domestic bison leaving an auction market.

AUTH: 81-5-202, MCA
IMP: 81-5-112, MCA

REASON: Legislative amendments were made to 81-1-120, 81-2-121, 81-3-201, 81-4-603, 81-5-101, 85-1-104, and 87-1-216, MCA to clarify the definition regulation of bison and granting the department rulemaking authority to establish a permit and inspection system for the transportation of bison.

5. This amendment shall be applied effective July 1, 2011 per SB207.

6. Concerned persons may submit their data, views, or arguments in writing to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to bison@mt.gov to be received no later than 5:00 p.m., September 15, 2011.

7. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m. September 15, 2011.

8. If the department receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed actions; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be more than 25, based upon the population of the state.

9. The Montana Department of Livestock maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by this department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the area of interest that the person wishes to receive notices regarding. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; faxed to (406) 444-1929

"attention Christian Mackay"; or e-mailed to cmackay@mt.gov. Request forms may also be completed at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The bill sponsors, F. Moore, Warburton, Arthun, D. Barrett, Brown, and Steinbeisser were notified August 1, 2011 by e-mail.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ George H. Harris
George H. Harris
Rule Reviewer

Certified to the Secretary of State August 1, 2011.